

Good Practices in Land Rights Work



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Preface

“Our parents advised us that land is our life. We were born to manage it. Land is our provision for the future”,

a young man from the indigenous community of the Pandumaan Sipituhuta states in a video on land rights in Indonesia.

This future is, for many people, especially indigenous people in Southeast Asia and the Pacific, at risk. Southeast Asia and the Pacific are global hotspots of conflict over natural resources. This is mainly attributable to the increased granting of concessions for agro-industries, logging, urbanization, and extraction of mineral resources on land that was previously under small-scale land use and customary law schemes. In some cases, legislation to protect the land rights of disadvantaged people is non-existent, in other cases the implementation of existing legislation is lacking. Often women, indigenous people, low-income smallholders, and other disadvantaged groups lack opportunities to influence local or national decision-making. Frequently their fundamental

rights are neglected. Displacement and violence are no rare phenomena in land struggles.

Enforcing the land rights of marginalized population groups demands complex social change. Conflicts over land mostly take place in a social environment of power imbalances between the involved actors. Beneficiaries of land rights work are heterogeneous groups of people with diverse positions, interests, and needs. Politically, land rights issues are highly sensitive in most countries of Southeast Asia and the Pacific because they are closely related to the distribution of power and wealth. Consequently, and especially in the current trend of shrinking spaces for civil society, the engagement of land rights activists puts them at high risk and increasingly they face existential danger. Effective civic action for land rights requires multidimensional knowledge and skills and a high level of perseverance.

Brot für die Welt (Bread for the World) and partner organizations realize the need to strengthen land rights work. On the basis of the results of the 2016 Brot für die Welt study “Land Rights Matter” (<https://bfdw.de/landrights>), Brot für die Welt invited partners in Southeast Asia and the Pacific to a regional partner consultation on land rights work in early 2017. The consultation proved the



Woman planting rice seedlings (Indonesia)

need for further strategic development, sharing of experiences, networking, and strengthening of specific capacities. A project was granted by Brot für die Welt for improving data collection, documentation of land rights cases, conflict analysis, strengthening of security, and networking, as well as coordinating advocacy from local to international level.

In order to further benefit from the great wealth of experiences among Brot für die Welt partner organizations, the idea of a good practice study was born. When, in 2020, the Covid-19 pandemic made travelling impossible, Brot für die Welt and partner organizations developed the concept of a decentralised, participatory study process. Twelve partner organisations joined the initiative and produced documentary films and reports on their good practice experiences in land rights work under the coordination of a team of consultants. The technical guidance by the consultants had the additional benefit that some partners improved their design and produced films and reports that could be used for their own training and education programs, and also for their fundraising. The studies were presented in an internet-based exchange during six workshops in which partner organisations reflected on approaches in different contexts.

This study draws key lessons from the eight individual reports and eight documentary films produced by Brot für die Welt partners on their good practices in land rights work. Throughout the document cross-references to those original studies are provided and give a glimpse into their richness.

Finally, Brot für die Welt would like to thank partner organisations for engaging in the exchange and providing valuable insights into their work. Thanks also to Susanne Friess for her outstanding work in summarizing the results of the good practice study, in coaching partner organisations in filmmaking and to Ulrike Bergmann and Russell Peterson for their expertise and commitment to guide partner organisations and staff of Brot für die Welt through the good practice process.

We are convinced that this report will be a useful learning tool for organisations involved in land rights work and will assist civil society actors in securing land for marginalized people as a resource for their future livelihoods.

JUTTA WERDES

Head of Brot für die Welt Southeast Asia and Pacific Unit

Introduction

All over Southeast Asia and the Pacific, people from poor communities are under pressure of losing their land. Both urban and rural poor communities are affected. An increasing number of land conflicts are connected to violence and human rights abuses.

Large parts of the land in Southeast Asia are rich in natural resources like timber, minerals, water and fertile soil. Most rural and indigenous communities have been living on their land under customary or traditional tenure rights for decades or centuries and rely on their land and forests as their main – and often only – source of livelihood. Within a customary land tenure system, the ownership, governance and use of land and natural resources have generally been regulated by the community from generation to generation and have strong implications for the social relations within the community and for the community's identity.

But the traditional way of life and customary systems for managing and cultivating land are being threatened. Governments, in their strive to boost the economy, attract foreign and national investors who establish huge projects on the land, such as extractive industries (e.g. oil, gas, and minerals), agro-industrial projects (e.g. oil

palm, rubber and mega food production sites) or infrastructure schemes (e.g. large dams, roads and other types of infrastructure). The accelerating urbanisation also contributes to the increasing pressure on land.

Very often, rural poor communities have neither documents nor other formal means to prove their land rights. Few possess land titles or land use certificates. And even when they do, these are mostly limited to individual rights, whereas collective rights play a major role in most customary land rights systems. Without formal proof of land tenure, people can easily be chased away while receiving only small or no compensation at all. Rural and urban poor communities – although comprising a large part of the population – do not have a strong voice in the government. Rarely are their needs and interests taken into consideration. Governments typically do not regard small-scale and subsistence agriculture as a valid path to development and tend to ignore the enormous contribution of traditional communities towards the common welfare, for example in terms of building food security, environmental sustainability and climate protection. Instead, they grant land use concessions to foreign and national investors without even informing or consulting the



Indigenous people in North Sumatra are confronted by the destruction of their customary forest (Indonesia).

affected population. These investors then claim to be the legitimate owners of the land.

Affected communities are often taken by surprise when big companies set up projects on their land. Investors try to seduce communities to give them their land without further resistance by promising to provide jobs, schools, health centres and other services for which the rural communities have long been waiting. But these promises too often turn out to be empty: Once the land has been given away, the investors forget their promises. People, in turn, lose their basis of living, culture and identity.

But land conflicts are not only taking place between investors and communities. When pressure on land increases and land becomes a more and more scarce resource, land conflicts also increase between different groups of the population and even between neighbours. In contexts where land-related laws and policies lack coherence and are poorly implemented or where there are weak democratic structures, land conflicts spread easily. It is not rare that different persons justifiably claim to be the rightful owners or users of the same parcel of land.

Land also is a crucial element in conflict and post-conflict contexts. People leave their land during conflicts. When internally displaced persons return, they often find their land occupied and have difficulties in proving that they are the owners of the land. When conflicts end, the restitution of land and property rights constitutes a challenge, but at the same time is fundamental to peacebuilding.

Women are particularly vulnerable to losing their land: Although an estimated 43 percent of the agricultural labour force are women, they make up less than 13 per cent of the world's landholders (UN Women 2020). Women own less land and have less secure rights over land than men (UN Working Group 2017).

While the constitutions of various countries often recognise the existence of indigenous peoples and – theoretically – grant special rights to them, there are often no laws that put these noble principles into practice. Where there are relevant laws and regulations, these are repeatedly not applied in a satisfactory manner.

The problems and challenges of land rights are numerous – not only in Southeast Asia and the Pacific, but worldwide. According to the International Land Coalition and Oxfam (2021), “land inequality directly threatens the livelihoods of an estimated 2.5 billion people involved in smallholder agriculture, as well the world's poorest 1.4 billion people, most of whom depend largely on agriculture for their livelihoods.”

As more and more large-scale land acquisition and concession projects are imposed on communities, protest is often the only recourse left to communities in exercising their right to have a say about the use of their land and natural resources, putting them on a collision course with those seeking profit at any cost. When conflicts escalate, governments often react with repression. Many of those who dare to speak out and defend their rights are brutally silenced. Land rights defenders whose rights are being ignored or abused are threatened, attacked, criminalised or even killed. Criminalisation is frequently used to intimidate defenders, tarnish their reputations and lock them into costly legal battles. In some countries such as the Philippines, land rights defenders are being treated as terrorists and risk being put in gaol for years. According to research by Global Witness (2020), the Philippines is the most dangerous country in Asia and the second-most dangerous in the world for land and environmental activists. Globally, governments are failing in their duty to effectively protect land rights defenders. They are permitting a level of impunity that allows the vast majority of perpetrators to walk free, thereby emboldening would-be assassins.

The worldwide Covid-19 pandemic has become an additional threat to land rights, since the economic effects of the pandemic have increased the pressure on land while land rights work has become much more difficult under circumstances of social distancing and Covid-19 travel restrictions. At the same time, land grabbing events continue apace. Data on the implications of COVID 19 on land rights situations is collected among others by the “Global Land Governance Index” initiated by the International Land Coalition (2021).

Land conflicts are a widespread problem and numerous high-quality reports have been published in recent years describing the contexts and cases and providing recommendations to different stakeholders on how to manage and resolve those conflicts without violence, how to prevent violent escalations, how to mediate conflicts, and how to recognise, respect and protect the legitimate land rights of disadvantaged people. For those interested, some of these reports are listed in the bibliography (p. 26) and can be consulted for further information. This report does not further explore the causes and consequences of land conflicts and the non-recognition of land rights but puts its focus on good practices in the land rights work of civil society organisations.

Chapter 1

Good Practices Exchange Process

The above-mentioned risks and challenges with regard to land rights lead to an urgent need to support rural and urban poor communities in defending their land. Many civil society organisations (CSOs) in Southeast Asia and the Pacific are giving priority to land rights and have developed expertise in accompanying rural and indigenous communities in their struggle to defend their land.

This report is a summary of more detailed reports and videos that have been elaborated by twelve civil society organisations engaged in land rights work in support of rural and indigenous communities in Indonesia, Laos, Myanmar, the Philippines and Vietnam. The reports and videos have been produced in the framework of an exchange process on “Good Practices in Land Rights Work”. Throughout this summary report, references are made to these twelve organisations and their more

detailed reports. The references are introduced with this symbol: → [followed by name of the organisation].

It is recommended that this summary report be read in conjunction with the summary video on Good Practices in Land Rights Work, available on the Brot für die Welt website → <https://bfdw.de/landgrabbing>.

The exchange process was initiated and facilitated by Brot für die Welt and took place between August 2020 and March 2021. The aim of the process was:

- to collect and analyse experiences and good practices in land rights work,
- to conduct an exchange on these experiences and good practices within the group of participating organisations,
- to inspire learning among the participants, and
- to promote the development of new and stronger strategies in defending land rights.



The following 12 Civil Society Organisations have taken part in the process:

- The **Association for Legal Aid and Advocacy for the People of North Sumatra (BAKUMSU)** promotes justice for the people and calls for the implementation of constitutional and human rights as mandated in the constitution of the Republic of Indonesia and international human rights treaties. → <https://bakumsu.or.id/en/>.
- **The Borneo Institute (BIT)**, is a non-governmental organisation (NGO) in Indonesia that promotes and protects the rights of the indigenous peoples of the Dayak. → <http://borneoinstitute.org/>.
- The **Covenant Development Institute (CDI)** is a non-profit organisation striving to secure the livelihoods of disadvantaged people in Myanmar and initiating policy dialogue around peace and conflict issues.
- The **Consultative Institute for Socio-Economic Development of Rural and Mountainous Areas (CISDOMA)** is an NGO in Vietnam engaged in enhancing capacity, increasing income, and improving the quality of life of disadvantaged groups, especially ethnic minority people, women and girls, poor farmers and other vulnerable groups. → <https://cisdoma.org.vn/en/>.
- The **Institute for the Development of Educational and Ecological Alternatives (IDEAS)** is a Philippine NGO whose mission is to facilitate change in the Philippine society through the promotion of sustainable agriculture and environmental protection among indigenous and non-indigenous farmers. → <https://ideaspalawan.webs.com/>.
- **The Papuan Peoples Network for Natural Resources and Ecosoc Rights (JERAT)** in West Papua, Indonesia, engages in community organising, lobbying and advocacy for indigenous people: to safeguard their natural resource rights; for their economic, social and cultural rights; and for environmental protection. → <https://www.jeratpapua.org/>.
- **KSPPM, the Community Initiative Development Study Group**, in North Sumatra, Indonesia, is an NGO that empowers people and supports them in building strong organisations that have access to their economic, social, cultural and political rights. → <https://ksppm.org/>.
- The **Land Information Working Group (LIWG)** in Laos is a network of civil-society organisations working towards greater community control over land, forests and natural resources. → <https://laolandinfo.org/en/>.
- The **Moat Thone Rural Development Foundation (MTRDF)** in Myanmar strives to contribute towards poverty reduction through a rights-based, participatory and sustainable development approach, with a focus on access to resources such as land and water.
- The **Peoples Development Institute (PDI)** is an NGO in the Philippines propelled by the vision to pursue asset reform and rural development by building and strengthening local organisations that will serve as effective partners in addressing related social, economic and political concerns. → <http://peoplesdev.org>.
- The **PETRASA Foundation** in Indonesia is a network of leaders working across the divides of age, ethnicity, class and issue to build a more just society.
- The **Task Force for Indigenous Peoples' Rights (TFIP)** is a network of NGOs in the Philippines that promotes and defends indigenous peoples' rights and upholds their self-determined development. → <https://philtfip.org/>.

This report summarises the good practice experiences that the twelve participating organisations have analysed and presented in their respective reports and videos. It highlights some of the strategies applied and some of the most important lessons learnt. However, this summary report can neither cover the whole variety of strategies and learnings that have been analysed in the good practice studies, nor can it fully reflect the richness of these experiences. This report does not want to replace the individual reports and videos but wants to invite the reader to further explore the more detailed materials that have been elaborated in the framework of the exchange process (see “Sources and Resources”, p 25). It wants to raise curiosity and give an overview without revealing all the interesting details and valuable findings that have been collected in the course of this process. Throughout the report, you will therefore find cross-references to the reports and videos of the participating organisations. We hope that the readers of this report will find the good practices in land rights work useful for their own work and wish you an inspiring reading.

Chapter 2

Good Practices in Land Rights Work in Southeast Asia and the Pacific

Civil society organisations all over Southeast Asia and the Pacific support rural and urban poor communities in defending and claiming their right to land. They apply and combine different strategies in order to help communities to remain on or to gain control of their land. They support the communities by:

- raising their awareness about potential threats to their land rights (see Chapter 2.1.)
- empowering and strengthening the communities' organisation and unity (see Chapter 2.2.)
- building the communities' capacities to deal with their situation and to do research on their own (see Chapter 2.3.)
- building strong social movements that work in alliance with regional and international land rights networks (see Chapter 2.4.)
- accompanying and strengthening the communities in their peaceful protest (see Chapter 2.5.)
- defending land rights defenders when being criminalised (see Chapter 2.6.)
- supporting the communities in their economic empowerment (see Chapter 2.7.)
- providing legal aid and counselling (see Chapter 2.8.)
- engaging in lobbying and advocacy in order to build public awareness and to influence decision makers to shape public policies that strengthen the position of traditional communities (see Chapter 2.9.)
- enforcing the application of existing laws and regulations (see Chapter 2.10.)
- providing platforms for dialogue and negotiation between different stakeholders (see Chapter 2.11.)
- creating new jurisprudence by using strategic litigation for land rights cases (see Chapter 2.12.)
- offering moral and spiritual support and backstopping (see Chapter 2.13.)

All of these strategies have been analysed in the course of the exchange process on "Good Practices on Land Rights Work" and are being presented in this chapter. It needs to be emphasised that "good practice" does not always mean "successful practice". There is no easy recipe for success. Land is a contentious resource, as it is not only economically valuable, but has also socio-political, historical and traditional dimensions. Hence, land rights work is in all contexts a complex matter and is often politically sensitive. Increasingly, it is also a dangerous field of activity and a struggle entailing

both progress and backlash. It takes patience and persistence. Failures cannot be avoided. It is therefore important to analyse and learn from both the successes and the failures.

The strategies and practices chosen and applied in land rights work depend on a thorough analysis of the respective situation, the context, the opportunities and risks, the supporting and hindering factors, and the supportive and opposing stakeholders. There is no "one-fits-all" strategy that can simply be transferred from one context to the other. Also, none of the good practices described below are "better" or "worse" than any other. Land rights strategies need to be adjusted to the respective context in a conflict sensitive manner that aims at decreasing the risk of violence and at enabling positive change. Strategies need to be combined intelligently. Even still, success stories are hard to bring about. Therefore, promoting exchange on land rights strategies among affected communities is important in order to enable joint reflection and learning and to broaden the spectrum of strategies that can be applied in the numerous cases where the land rights of rural and urban poor communities are violated.

Accompanying does not mean "acting on behalf of the community"

One important insight shall be mentioned as a preliminary note to the good practices, related to the role of the civil society organisations and their relationship with the affected communities: The participating organisations unanimously agreed that it is very important for CSOs to limit themselves to supporting and advising the community but not acting on their behalf. The community is the central actor that needs to consider the risks resulting from combatting land grabbing and that needs to decide how to react to the situation. CSOs can provide information, build capacities and suggest different strategies – but it is and has to be the community who decides! Listening to the people and respecting and strengthening the communities' will is not only a result of the exchange process but is itself a good practice in land rights work. It is important that the relationship between the community and the CSO that accompanies the community in its land rights struggle is based on trust and a feeling of "togetherness" (→ KSPPM & BAKUMSU). The CSO facilitates the process but does not act on behalf of the community.

2.1 Raising Awareness

Rural and urban poor communities very often lack information on land rights issues in general, on land rights in their specific situation, on the legal framework in their country, and on large-scale projects in their neighbourhood and their potentially dangerous implications. Therefore, all land rights work usually starts with raising the communities' awareness of the issues. CSOs provide credible information and data and discuss them with the communities. They conduct participatory research with the community and help them to obtain better access to information (see Chapter 2.3. "Capacity Building and Participatory Research"). It is important that all relevant stakeholders in the community are involved in this process (see Chapter 2.2 "Empowering the community").

Awareness raising needs to be done in a way that connects to the reality of the people: For PETRASA in Indonesia, using an agricultural approach turned out to be a

good entry door to access people and to raise their awareness about a planned large-scale mining project because "agriculture is an issue that can touch their hearts". Initially, when Petrasa had tried to talk about the mining project that was planned to be established on the community's land, people were not interested to listen or to engage in the struggle to protect the land. But once people understood that mining would have extremely negative impacts on agriculture and thus on their main and often only source of livelihood, it became evident to the community that this was a very crucial issue for them. So, the use of an agricultural approach was more acceptable to the community and easier to understand than providing abstract information on things that did not directly connect to their reality (→ PETRASA). (For further information on the agricultural approach, see Chapter 2.7).

It may also be very useful for affected communities to get to know other communities who are struggling with similar challenges. Exchange visits can be a powerful tool to raise the community's awareness (→ PETRASA).

Gathering, sharing and discussing information on legal issues is crucial (→ BIT). It is important to find appropriate ways to communicate and disseminate legal information since, very often, people find it hard to understand legal jargon. A good example is the legal calendar that has been developed by → LIWG in Laos. The calendar provides legal information on laws and regulations regarding land and natural resources. It uses simple language and illustrations that reflect the daily life of the people so that people can identify with them. The legal calendar is distributed to all households in the community and is also used as a training material. The legal calendar has turned out to be an efficient tool to build legal awareness and to prevent conflicts (see Chapter 2.3. "Capacity Building and Participatory Research").



LIWG trainers share the contents of the 2020 Land Calendar in a community (Laos).

2.2 Empowering the Community

Strengthening the community's unity and identity, and their ability to deal with land issues and to define their own solutions, is key for land rights work. On the other hand, internal divisions and conflicts considerably reduce the chances for communities to successfully defend their land. This has been stressed by all the participating organisations. It is important to dedicate enough time to build awareness and trust and to empower the community to make its own informed decisions.



Indigenous people march in support of Desa Adat (traditional village) status for their village (Indonesia).

Building Strong Organisations

CSOs may support the community in establishing and consolidating their customary institutions (→ BIT, JERAT, KSPPM) and/or in building strong peoples' or farmers' organisations that represent the community in all land rights activities (→ KSPPM, MTRDF, TFIP). MTRDF in Myanmar chose to promote the formation of legally recognised farmers unions. The farmers' participation in land dispute resolution committees (established by the government) provided an opportunity for the farmers to advocate their rights and contribute towards the revision of land legislation (see Chapter 2.11 "Facilitating Dialogue and Negotiation between Stakeholders"). Indigenous and other disadvantaged communities may also be encouraged to have their own representation in local, regional and national government structures (→ KSPPM, JERAT). Strong organisations guarantee the involvement of the community in land rights activities and position the community as the subject of the struggle. As subjects, they are the ones who jointly formulate issues, strategies and goals for their struggle by means of non-violent action.

Formation of Cadres

Cadres are representatives of the communities who raise awareness about land rights issues and take a leading role in strengthening the unity and the position of the community. They communicate with stakeholders outside the community such as allies, policy makers and company representatives and are leading figures in the advocacy movement (→ PETRASA). Female leaders play a very important role in land rights work and may greatly improve the community's advocacy. Women are particularly vulnerable to the effects of land grabbing. When they become cadres, they act as leadership models in their village and inspire other women and members of the community to engage in land rights work (→ PETRASA).

Joint Reflection and Planning

Communities need to jointly reflect on their specific land rights situation. It is important that all the relevant groups of the community take part in this joint reflection and planning, i.e. men, women, young people and elderly people (→ BIT, JERAT, CISDOMA, PETRASA). Together, and with the support of their partners, they analyse their

situation, define their position, and also analyse their opponents and other stakeholders' positions (→ KSPPM). On the basis of this joint analysis and reflection, the community – supported by the CSO – defines the strategy, including what is needed (e.g. legal aid, people-led community projects, education and information, lobbying, etc.) and how it should be done (→ TFIP, KSPPM, JERAT, BIT).

Building a Collective Identity

Raising awareness, research, joint reflection and planning will support the community in building a collective identity for their struggle so that all involved are willing and able to act together. By forming a collective identity, collective action can be carried out (→ KSPPM, TFIP, JERAT, PETRASA and others).

Gender Justice

Many traditional communities are characterised by patriarchal cultures. Therefore, when land rights struggles start, women are often reluctant to talk, saying that their voices will be represented by men. However, it is important to include women in the process from the very beginning, not only by inviting them to participate in meetings and demonstrations, but also by inviting them to take a role as female leaders and take part in lobbying and advocacy. Thus, the struggle over land will be more powerful and will also help to strengthen the women's position in the community and improve their quality of life (→ KSPPM, PETRASA, CISDOMA).

2.3 Capacity Building and Participatory Research

Trainings

One central element of awareness raising and community empowerment is conducting capacity building trainings. All the organisations involved in the good practices process were providing training to the communities. The training topics were, for example:

- how to get access to information (→ LIWG, CISDOMA)
- how to do participatory research (→ JERAT)
- how to do a stakeholder analysis (→ KSPPM)
- how to negotiate with companies and the government (→ PETRASA)

- how to do advocacy and influence policy (→ KSPPM, JERAT)
- how to mediate (→ JERAT)
- how to build and apply technical skills (→ JERAT)
- how to map customary land in a participatory way (→ KSPPM, JERAT)
- and many other land rights issues.

Creative Training Methods

It is important to not only focus on the content of the trainings, but also on the methodology. Trainings become more effective when they use appropriate language and materials (→ CISDOMA, LIWG) so that the contents can easily be understood by all members of the community. Creative and interactive methods of adult learning help to convey and internalise the contents and give participants a chance to own the learning process (→ CISDOMA, LIWG). Trainers should act with empathy and put people at the centre so that participants feel encouraged to speak out and to actively participate.

Participatory Research

Supporting the community to do their own research is another approach to capacity building and empowerment. By doing their own research, the community will learn how to gather information on various aspects that are relevant to their land rights struggle, such as history and genealogy, customary institutions and rules, participatory mapping, and economic evaluation of natural resources (→ KSPPM, JERAT). Participatory research will build the community's awareness and strengthen their determination to defend their land. CSOs stress the importance of basing their land rights strategy on research (→ KSPPM) and distinguish various types of research, such as social research, cultural research, research on customary law, research on conflicts that occur in the community, research on land use, etc. (→ JERAT). It may also be strategic to include other stakeholders in the research such as academics or technical experts (see also Chapter 2.11 "Alliance building and networking").

Research may also include the monitoring of other land grabbing events in the country and region as well as other threats to the peoples' land rights. The results of this kind of research should be discussed and addressed with the community (→ IDEAS) and may contribute to their awareness raising.

2.4 Building a Strong Social Movement

While strengthening the community's internal organisation and unity is of fundamental importance, it is not enough. The affected community needs to be embedded in a strong social movement that supports their struggle and extends the arena of struggle to a higher level. A single community usually does not have enough power to be heard by the government or media. A strong social movement should be able to urge the decision-makers in the government to take measures to protect the right to land. The social movement needs to develop a "we feeling" and fully identify with the community's struggle (→ KSPPM & BAKUMSU, TFIP and others).

Networking

Cooperation between communities, local CSOs and international NGOs has proven to be very effective in strengthening advocacy for land rights (→ PETRASA, KSPPM & BAKUMSU, TFIP). Different actors take on different

roles according to their capabilities and backgrounds: There may be CSOs that take the role of organising local communities, others that provide their expertise in legal assistance or legal defence, and others that assume the role of building cooperative relationships with international organisations, etc. Good coordination and communication are key for successful networks. It may be useful to form a joint secretariat that supports the work of the network. Involving international organisations and networks may be particularly relevant in cases of land conflict where international stakeholders are involved as well as in contexts where space for civil society organisations is shrinking.

Strategic alliances

The movement should also involve experts or organisations that can provide special expertise – e.g. on environmental, legal or technical issues – and may include students and academics, law scholars, religious institutions, politicians, media representatives and international allies. A participatory stakeholder analysis may indicate who should be part of the social movement – and who not.



Peaceful protest demanding the release of 16 villagers arrested for entering their customary forest (Indonesia).



TFIP in the Philippines, in their campaign against large dams that threatened the Dumagat indigenous people, found it very useful to build a strong network in support of the campaign against the Kaliwa dam project. The network carried out numerous activities such as hearings and conferences and lobbied the Philippine Congress. The inclusion of church people turned out to be very helpful in reaching a broader public. Lawyers and other technical experts offered services such as reviewing the environmental impact study of the dam project and filing cases to the national Ombudsman (→ TFIP).

2.5 Peaceful Protest

Non-violent protests and demonstrations are an important way to express the community's disagreement with government decisions. They may be a powerful tool in a land defence strategy. However, in contexts where governments use repressive measures, protests bear the risk of land rights defenders being attacked, criminalised or even arrested (see Chapter 2.6. "Legal Defence of Land Rights Activists"). It is therefore important to also consider other ways of expressing disagreement with

government's policies and actions, such as presenting alternative development options in public hearings which counter the government's narrative and suggest new criteria for improving the common good (→ KSPPM, BIT).

2.6 Legal Defence of Land Rights Activists

The struggle for land rights entails serious security risks for land rights defenders, as the fight for land and natural resources involves powerful stakeholders. Since the struggle for land rights relates to the distribution of power and wealth, intimidation, repression and criminalisation of land activists are very common. Promoting the security of land rights defenders is therefore crucial. It includes different measures such as a thorough risk analysis, the development of a security management system and training of the people involved. It is also very important to provide legal defence for land rights defenders who are criminalised (→ BAKUMSU, MTRDF). Legal defence, in fact, is an important precondition for civil society activists who dare to get involved in land rights work. It may



Indigenous Aeta women present to West Papuan visitors their local economic enterprise (Philippines).

be favourable to form an alliance with a specialist organisation that offers legal assistance (→ as shown by the example of KSPPM & BAKUMSU). In very stressful contexts, psycho-social support may be needed for land rights defenders who are threatened or criminalised. It is important to continuously evaluate the risks and to be prepared to consider the option of discontinuing the struggle or moving to a less visible mode for some time in order to not endanger lives.

2.7 Economic Empowerment

The struggle for land rights needs to go hand in hand with a strategy that aims at strengthening the communities' livelihoods, since communities that enjoy good livelihoods will be stronger in defending their land. Experience shows that the active use of land may help to increase people's control over their land resources and to decrease the risk of land being grabbed from them. The expansion of communities' agricultural activities can also be important in contradicting the impression that land is "vacant" or "fallow", which is often used as an excuse for giving land concessions to investors.

Petrasa – together with other civil society organisations – is supporting communities that are affected by a planned mining project in North Sumatra, Indonesia. Within the civil society alliance which works on the case, from the local up to the international level, Petrasa is responsible for the task of community empowerment. Since many of the affected people are farmers, Petrasa has chosen an agricultural focus in order to get in touch with the communities and to build their awareness about the expected negative effects of the mine (see Chapter 2.1. "Raising Awareness") (→ PETRASA). Petrasa works with the farmers to diversify their production and increase their harvests. They provide agricultural training on issues such as organic farming, livestock raising, natural pesticides, marketing, chicken farming, etc. The improved agricultural practices strengthen the community's conviction that agriculture is a suitable and sustainable source of income, worth defending against the mining project.

PDI in the Philippines has chosen a similar focus: The CSO supports communities such as the Aeta indigenous peoples by promoting sustainable agriculture and the establishment of economic enterprises so that the farmers and indigenous peoples can establish a suitable,

viable and sustainable farming system. The establishment of economic programs in the agrarian and ancestral domain provides communities with greater control over their land and means of production. The economic support services are also a means to building stronger community organisations and more resilient communities. Strengthening the community's economy will also strengthen their will to defend their land (→ PDI).

In land rights work, economic empowerment is being combined with other strategies. PDI argues that rural development through asset reform can be achieved by people's participation in a positive combination of changes in land tenure and social and economic support services, minus the influence of vested interests that impede progress. To summarise this reflection, PDI has come up with the following formula: Asset reform = land tenure improvement + economic support services + social infrastructure building – vested interests.

2.8 Legal Aid

CSOs also provide legal aid or free legal counselling to communities and individuals in order to build the communities' awareness and attainment of land rights. In Vietnam, for example, according to the land law and other legal provisions, women are equally entitled to land rights. However, there are several factors that prevent women's equitable access to land, especially for women from ethnic minorities. These include: 1) limited awareness of the legal framework; 2) no or limited access to legal information and legal counselling; 3) patriarchal practices; and 4) the difficulty of enforcing legal instruments. → CISDOMA responds to this situation by offering free legal education on land rights issues and onsite counselling to rural women. CISDOMA also has experience in training community-based paralegal mediators who offer legal counselling in the community when land conflicts arise (see Chapter 2.11. "Facilitating Dialogue and Negotiation between Stakeholders").

2.9 Lobbying, Advocacy and Influencing Policy

Lobbying, advocacy and influencing policy are a central part of land rights work and comprise various strategies

that need to be based, amongst other things, on a thorough analysis of the situation, the evaluation of opportunities and risks, and a stakeholder analysis (→ KSPPM & BAKUMSU). The organisations involved in the good practices process emphasise that it is important to develop the advocacy strategy together with the community. The community needs to be involved in every step and needs to be the subject of the lobbying and advocacy work.

Providing credible information

As stated above, advocacy actions must be based on thorough research and credible data (→ JERAT, KSPPM & BAKUMSU, TFIP, BIT and others) (see Chapter 2.2. "Empowering the Community"). Communities and their partners should use the results of their research to provide sound and reliable information to government officials, government commissions or other decision makers (→ MTRDF) and convince them to take action on behalf of their cause. Proper documentation and clear presentation of information about land rights conflicts is key to successful advocacy strategies.

Building relations with change agents

Communities and their partners must make an effort to build good relations with relevant decision makers from the local to the national and even international levels and identify those who are willing to support their struggle. Also, traditional and religious leaders and other



Mobile legal counselling on land issues in Hoa Binh Province, Vietnam.

Dumagat indigenous people's representatives speak out against a proposed dam on their land (Philippines).



authorities might be influential as change agents. TFIP applied the strategy of identifying “champions” among decision-makers who then developed policies and filed resolutions against the large dam project (→ TFIP).

Influencing policy makers

Government officials and policy makers need to receive information that prove the legitimacy of the community's position. This may be through reports, policy briefs, research studies, experts' opinions or petitions, etc. (→ CDI, PETRASA, MTRDF). Policy makers may be invited to events such as forums, public hearings, community visits and exposure trips in order to build their awareness and to influence their opinion. Again, community leaders must be visible in most, if not all of these activities (→ BIT, KSPPM & BAKUMSU, TFIP). It may also be strategic to invite local government members to workshops and trainings (→ CISDOMA) and to build collaboration between local government officers, CSOs and communities in an attempt to address land issues

constructively and to work together to explore solutions (→ LIWG, CISDOMA).

Building public awareness

In order to influence public opinion regarding a land conflict, it is especially important to use the media. Land rights movements closely cooperate with journalists on the local, national and international level who report on the issues and help to convey arguments to a broad public and build their awareness. It is important to build strong relations with journalists who accompany the struggle. → MTRDF state that interviews and press conferences are a relevant instrument for making advocacy work more efficient. In their experience, the media played a decisive role in their struggle for new regulations.

Social media have also turned out to be important channels, both for broadening the movement and for conveying content. KSPPM & BAKUMSU emphasise the need to publicly disseminate research results through media allies (→ KSPPM & BAKUMSU).

Proposing more viable alternatives

It is a good strategy to not only reject a large-scale project but also to identify and propose viable alternatives and convince policy makers of these alternatives. In their fight against large dam projects, TFIP in the Philippines in cooperation with scientists provided information on alternative solutions for the water supply of the capital city of Manila, such as combining improved maintenance of the water pipe system, desalination of sea water, rainwater harvesting, the rehabilitation of existing large dams, etc. (→ TFIP).

Changing the legal framework

Through continuous lobbying and strategic advocacy, various organisations (→ MTRDF, JERAT, BAKUMSU, BIT) have managed to influence policymakers to change the legal framework and pass new laws or regulations that protect the rights of indigenous communities. With their continued and persistent lobby work, JERAT in West Papua Province, Indonesia, succeeded in having a regional regulation passed that recognises and protects the customary law community of the Moi indigenous people. JERAT concludes that it is necessary for

organisations to take a proactive role and to step in and fill gaps where policy makers are unwilling or unable to assume certain tasks. In the case of the Moi people's land rights, JERAT and the community cooperated with legal experts to draft the local regulation. This was an important input for their lobbying and advocacy work (→ JERAT).

Together we can!

The impact of advocacy work can be increased significantly when communities and their accompanying partners (CSOs and others) manage to build a strong social movement (see Chapter 2.4). This includes building networks, strategic alliances and coalitions in order to have more effective campaigns (→ JERAT, KSPPM & BAKUMSU, BIT and others).

2.10 Law Enforcement

In many countries in Southeast Asia and the Pacific, there are laws, policies or constitutional principles that – at least theoretically – protect the rights of indigenous or



Indigenous people vote to approve Desa Adat (traditional village) status for their village in Central Kalimantan (Indonesia).

traditional communities. However, these are often not implemented by the government. Identifying these legal or constitutional opportunities is therefore an important step in developing a land rights strategy. It includes a thorough review of the existing legal framework for land rights. It is recommended that legal experts or legal scholars be involved in this process.

Asserting the Right to Free, Prior and Informed Consent

Free, Prior and Informed Consent (FPIC) is a specific right that pertains to indigenous peoples and is recognised in the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). It allows indigenous communities to give or withhold consent to an investment project that may affect them. Asserting the right to FPIC can play an important role in land rights strategies since many countries have signed the UN Declaration and have thus declared their willingness to protect indigenous peoples' rights (→ IDEAS, TFIP, PDI). FPIC is also an important component of the Voluntary Guidelines on the Responsible Governance of Tenure (VGGT) negotiated by Member States of the Committee on World Food Security (CFS) and endorsed in 2012.

Recognition of Customary Laws

BIT studied Indonesia's legal regulations in order to find a viable path to defend the land of the Dayak indigenous people whose land was threatened by palm oil companies. They found an opportunity in a law that recognises the customary laws of a traditional village. Claiming "traditional village" status appeared to be a very innovative step. The Dayak people organised a referendum as a democratic way to decide whether they wanted to pursue the status of a "traditional village". This status gives autonomy to the indigenous people to administer their resources on their own and to live according to their own rules and traditions, in accordance with the Constitution of the Republic of Indonesia. The majority of the villagers in three communities voted in favour of pursuing the status of a "traditional village" (→ BIT).

Obtaining Land Titles / Certificates

Opportunities provided to disadvantaged communities to obtain land titles or land certificates are of high interest to the potential recipients since the formal proof of land use or ownership is regarded as the ultimate instrument to protect their land rights. IDEAS in the

Philippines supported the Pala'wan people in claiming the land title for their ancestral land through the Philippine Indigenous Peoples Rights Act. However, trying to obtain the land title turned out to be a very slow and bureaucratic process. Communities and their partners need patience and persistence to reach the goal. Sometimes, the process may get stuck for a long time. In this case, it may be better to shift the focus to other activities for a while, e.g. building community solidarity and leadership, enhancing livelihoods or implementing management plans to protect the natural resources. IDEAS also took on state duties on various occasions by providing data, documentation and even finances, thus contributing to the progress of the land title process (→ IDEAS).

PDI in the Philippines had similar experiences when supporting the Aeta indigenous people in obtaining the title for their ancestral land. By completing missing documentation, influencing the corresponding national agencies and negotiating with them in a persistent way, PDI managed to gain recognition of the Aetas' ownership rights to their ancestral lands (→ PDI).

Promoting Agrarian Reforms

CSOs play an important role in promoting pro-poor land policies and agrarian reforms that aim to achieve poverty reduction, social justice and peace building. PDI in the Philippines has successfully applied agrarian reform advocacy, resulting in land being transferred to the control of small-scale farmers' communities. The redistribution of land and securing of land rights for rural and urban poor communities has direct implications for the distribution of power. With lands in their names, communities are motivated to become fully invested actors in building the local economy, through production and active participation in local governance processes (→ PDI).

2.11 Facilitating Dialogue and Negotiation between Stakeholders

Dialogue and negotiation between the community, government officials and/or representatives of companies is a sensitive issue since, very often, the situation is characterised by a massive power imbalance. Engagement may open up opportunities, but it can also involve risks that need to be analysed beforehand. Good preparation and a clear strategy are essential preconditions for engagement.



CISDOMA improves legal literacy through interactive communication (Vietnam).

CSOs can act as advisors to the community and develop a strategy with them. Dialogue and negotiation need to be embedded in a broader strategy and combined with other practices. MTRDF in Myanmar, for example, found it useful to combine activism and engagement (→ MTRDF).

CDI in Myanmar has gained valuable experience in facilitating dialogue and negotiation between different stakeholders in a scenario of civil conflict. Both the government and ethnic armed organisations (EAOs) play an important role in land governance in southeast Myanmar, as they implement different and overlapping land governance systems, turning land governance into a complicated problem. Civil society, international development partners, political parties and the private sector are also important stakeholders in land governance. Conflicts can only be solved when the stakeholders are willing to find a joint agreement. Dialogue between the stakeholders is therefore crucial. Before engaging in dialogue, CDI first works separately with different stakeholders, including the EAO departments related to land, natural resources and rural development. CDI strengthens their

capacities for negotiation and provides platforms for dialogue while assuming the role of facilitator. The facilitated dialogue aims to build mutual understanding and trust, improve coordination between the different stakeholders and open up the space for concrete negotiation on land governance issues in the future. (→ CDI)

Mediation

CISDOMA in Vietnam developed a strategy to respond to land conflicts between villagers at an early stage, applying a mediation mechanism before tensions grow more intense. CISDOMA provides capacity building and trains local para-legal counsellors in order that they may acquire legal and mediation skills and be able to capably mediate between conflict parties in their villages (→ CISDOMA).

2.12 Litigation of Land Rights Cases

In some contexts or cases, it may be useful to choose a litigation strategy. Litigation may be a suitable means of

reaching court decisions that strengthen the rights of indigenous or rural communities. KSPPM in Indonesia and the indigenous peoples of Pandumaan and Sipituhuta worked in close cooperation with BAKUMSU, a legal aid institution that brought in their legal expertise and played an important role in the litigation process. Together with coalition partners at the national level, they reached a Constitutional Court Decision which states that customary forests are not state forests and are therefore under the management of the indigenous communities that are living on the land. This landmark decision has positive implications for all the indigenous communities in the country (→ KSPPM & BAKUMSU).

2.13 Keeping up the Spirit

One of the big challenges in land rights work is that struggling for land rights is a time-consuming, tiring, often frustrating and even risky undertaking. Land rights processes usually take a long time, and patience and persistence are needed (→ MTRDF, IDEAS). Backlashes during the struggle for land rights are frequent, which makes it hard to keep motivation high. Fatigue is a very common challenge in land rights work. It is therefore important for CSOs not only to focus on the land rights strategy itself, but also to think of ways of supporting land rights defenders to build their endurance and resilience.

Very often, conflicts arise not only with the government or opponents but also within the community. Promoting unity through dialogue is a continuous task for the accompanying CSO.

Acting in solidarity with the communities – especially in contexts where land rights struggles easily turn into matters of life and death (e.g. as is often the case in the Philippines) – is of enormous importance for land rights defenders. Continuous and empathic support to the communities in their struggle helps them to overcome feelings of hopelessness and defeat. A strong movement that supports the communities' struggle and actively joins them in their fight gives power and courage to the communities to face the big challenges they are confronting.

Sharing good practices and success stories may be another good way to overcome fear and frustration.

Chapter 3

Conclusions and the Way Forward

The exchange on good practices in land rights work among Brot für die Welt partner organisations was a very fruitful experience of sharing insights and lessons learnt among civil society organisations that are supporting urban, rural and indigenous communities in defending their land rights. The conclusions and lessons learnt that participants have taken away from this exchange process are numerous. The following bullet points summarise just a few of the very important learnings that the organisations have shared. The process of exchanging good practices in land rights work will continue, and the participating organisations are continuing to develop interesting new ideas on how to build and strengthen capacities in land rights work.

- Land rights work is a highly relevant and at the same time very complex, challenging and often even dangerous endeavour. Land rights activists need to have courage, creativity, conflict sensitivity, strength, patience and perseverance in order to drive land rights processes forward.
- Men and women and the different generations need to be involved in land rights work, and their diverse land rights situations, needs and potentials have to be taken into consideration.
- Civil society organisations very often play a crucial role in the defence of land rights. They contribute various capacities and resources, including analytical, legal, technical, coordination and communication expertise. It is very important that the relationship between the community and the CSO is based on trust, solidarity and a feeling of “togetherness”. At the same time, it is also very important for CSOs to limit themselves to supporting and advising the community but not acting on their behalf. The most relevant task of the CSOs is to empower the communities and enable them to defend their land on their own. Strengthening the communities’ unity and identity, and their ability to deal with problems and to define their own solutions, is key for land rights work.
- The selection of strategies needs to be the result of a thorough analysis of the situation, the opportunities and threats, and the potential supporters and opponents. In view of different individual contexts, different strategies need to be selected and combined intelligently in a conflict-sensitive manner. While strategic planning is very important, the implementation of land rights work must be handled with flexibility, since the situation is very often subject to change.
- Lobbying, advocacy and influencing policy are central parts of land rights work. Proper documentation and clear presentation of information about land conflicts is key to successful advocacy strategies. CSOs can help build contact with change agents among policy makers and other authorities. Beyond support for individual land rights cases, CSOs may contribute towards change in the legal framework and in the implementation of laws and policies.
- Civil society organisations and the affected communities need to cooperate in a network of strategic allies and partners to become more powerful, to increase their influence and to share potential risks among different actors. The use of media is key in order to be able to inform a broader public.
- Claiming land rights entails serious security risks. Intimidation, repression and criminalisation of land rights activists are very common. Security risks need to be assessed thoroughly and continuously. Measures need to be in place to reduce potential risks and to defend activists when they face criminalisation, defamation and other threats.
- Land rights activists are frequently confronted with very difficult situations and slow progress, which may lead to fatigue and a feeling of powerlessness. CSOs not only support the communities in implementing their land rights strategies but also help land rights defenders to build their endurance and resilience.
- Networking, expressions of solidarity and long-term support from partners and like-minded groups on the local, regional, national and even international level can help to empower the communities and to keep their spirits up.

Acknowledgements to Participating Organisations

This summary report has drawn on the detailed good practice reports and videos prepared by Brot für die Welt's partner organisations in Southeast Asia and the Pacific, namely:

- The **Association for Legal Aid and Advocacy for the People of North Sumatra (BAKUMSU)** in Indonesia
- The **Borneo Institute (BIT)** in Indonesia
- The **Covenant Development Institute (CDI)** in Myanmar
- The **Consultative Institute for Socio-Economic Development of Rural and Mountainous Areas (CISDOMA)** in Vietnam
- The **Institute for the Development of Educational and Ecological Alternatives (IDEAS)** in the Philippines
- The **Papuan Peoples Network for Natural Resources and Ecosoc Rights (JERAT)** in West Papua, Indonesia
- The **Community Initiative Development Study Group (KSPPM)** in North Sumatra, Indonesia
- The **Land Information Working Group (LIWG)** in Laos
- The **Moat Thone Rural Development Foundation (MTRDF)** in Myanmar
- The **Peoples Development Institute (PDI)** in the Philippines
- The **PETRASA Foundation** in Indonesia
- The **Task Force for Indigenous Peoples' Rights (TFIP)** in the Philippines

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Moreover, this report emphasises and acknowledges the brave work of the threatened communities and civil society organisations who stand up for their right to land and for respect for their way of life.

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2. CISDOMA, Vietnam: Legal literacy and legal assistance to ensure equal land rights for ethnic minority women in Vietnam
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4. KSPPM & BAKUMSU, Indonesia: The Effectiveness of Combining Non-Litigation and Litigation Advocacy in the Struggle of the Indigenous Peoples of Pandumaan and Sipituhuta, Humbang Hasundutan Regency, to Defend Their Customary Territories
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